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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,271	12/15/2003	Eric Bryan Bond	9141M	3834

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EXAMINER

MATZEK, MATTHEW D

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/736,271

Applicant(s)

BOND ET AL.

Examiner

Matthew D. Matzek

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 4/5/04, 1/4/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 4-10, 14, 16 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Johnson et al. (US 2003/0228813).

a. Johnson et al. teach a wiping article comprising a nonwoven substrate and a texture layer (Abstract). The nonwoven substrate may comprise synthetic fiber and natural fibers such as pulp fibers. The synthetic fibers may comprise eccentric sheath-core orientation and hollow fibers of the same configuration [0018]. Micron-sized fibers may be used in the most preferred article as the polyester fibers have a diameter of 12.4 microns and a rayon fiber diameter of 11.9 microns based upon specific gravities of 1.38 and 1.51, respectively [0019, Dictionary of Fiber and Textile Technology]. Example 6 comprises Calcium carbonate. The applied invention provided for both thermoplastic and non-thermoplastic fibers with eccentric hollow cores.

2. Claims 1-5, 7 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Tolliver (US 3,772,137).

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a. Tolliver teaches a batt comprising hollow polyester filaments with wherein the perimeter of the hollow region of the hollow polyester filaments may be non-circular (Abstract and Figs. 2 and 4). The perimeter of the hollow region is substantially non-concentric to the outer perimeter of the hollow polymeric fiber (Figs. 2 and 4). The hollow region of the hollow polymeric fiber is from about 13 to about 25 percent (col. 2, lines 34-36). The fibers of the applied invention have a denier as low as 4 (col. 1, lines 64-67). Based the density of polyester provided supra and the polyester consisting 87% of the surface area of the end of the fiber (13% void content) the polyester fibers have a diameter of ~22 microns (calculations done by Examiner). The filaments may be made with  $\text{TiO}_2$  as a delustrant (col. 6, lines 25-30). The applied article is not explicitly directed to a wet wipe, however as the article meets the compositional and structural limitations set forth in claim 1 the article may in turn be used as a wet wipe.

3. Claims 1-5, 7, 14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Kent et al. (EP 860,521).

a. Kent et al. teach bicomponent fibers having a polyamide sheath and a core domain (Abstract). The preferred embodiment is a trilobal fiber and the applied invention teaches an elliptical void (Abstract and col. 4, lines 1-2). Calcium carbonate may be used in the fiber (col. 3, lines 24-28). The fibers of the applied invention may have a void that consists of about 3 and about 10 percent of the total cross-section of the fiber (Abstract). The Examiner takes the position that "about 10 percent" allows for a void percentage of greater than 10

percent. The applied invention teaches linear densities of about 3 to about 75 denier (col. 4, lines 17-20). Based upon a void area consisting of 10 percent of the fiber, a denier of 3, and a nylon specific gravity of 1.14 the diameter of the applied invention may be 20 microns (Dictionary of Fiber and Textile Technology). The applied invention is not explicitly directed to a "wet wipe" however as the disclosed fiber may be formed into a fabric it may serve in instantly claimed manner (claim 9).

***Claim Rejections - 35 USC § 102/103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 11, 15, 17-19 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Johnson et al. (US 2003/0228813).

a. Although Johnson et al. does not explicitly teach the claimed feature of a greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight, it is reasonable to presume that said property is inherent to Johnson et al. Support for said presumption is found in the use of like materials (i.e. a batt comprising hollow polyester filaments with wherein the perimeter of the hollow region of the hollow polyester filaments may be non-circular). The burden is upon Applicant to prove otherwise. *In re*

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*Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight would obviously have been present one the Johnson et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

5. Claims 11-13, 15, and 18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Tolliver (US 3,772,137).

a. Although Tolliver does not explicitly teach the claimed feature of a greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight, it is reasonable to presume that said property is inherent to Johnson et al. Support for said presumption is found in the use of like materials (i.e. a fibrous fabric comprising hollow polymeric fibers wherein the perimeter of the hollow region is eccentric). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight would obviously have been present one the Tolliver product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

6. Claims 11-13, 15, and 18 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Kent et al. (EP 860,521).

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a. Although Kent et al. does not explicitly teach the claimed feature of a greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight, it is reasonable to presume that said property is inherent to Kent et al. Support for said presumption is found in the use of like materials (i.e. bicomponent fibers having a polyamide sheath and a core domain (Abstract). The preferred embodiment is a trilobal fiber and the applied invention teaches an elliptical void). The burden is upon Applicant to prove otherwise. *In re Fitzgerald* 205 USPQ 594. In addition, the presently claimed property of greater opacity than a fibrous fabric produced with the same polymeric material at an equivalent fiber diameter and basis weight would obviously have been present one the Kent et al. product is provided. Note *In re Best*, 195 USPQ at 433, footnote (CCPA 1977) as to the providing of this rejection made above under 35 USC 102.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew D. Matzek whose telephone number is (571) 272-2423. The examiner can normally be reached on 8:30 am - 5:00 pm.

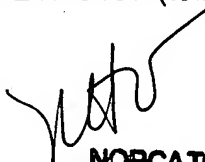
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mdm

*MDM*

  
**NORCA TORRES**  
**PRIMARY EXAMINER**